

AMENDED IN ASSEMBLY JUNE 30, 2004

AMENDED IN ASSEMBLY JUNE 8, 2004

AMENDED IN SENATE APRIL 13, 2004

SENATE BILL

No. 1749

Introduced by Senator Karnette

February 20, 2004

~~An act to add Chapter 5.2 (commencing with Section 42250) to Part 3 of Division 30 of the Public Resources Code, relating to composting.~~
An act to add Chapter 5.7 (commencing with Section 42355) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1749, as amended, Karnette. ~~Composting~~ *Plastic bags: labeling.*

The existing California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, establishes an integrated waste management program. The act requires every manufacturer that manufactures plastic trash bags of a specified thickness to ensure that a trash bag intended for sale in this state contains a quantity of recycled plastic postconsumer material equal to at least 10% of the weight of the bag, or that at least 30% of the weight of the material used in all of the manufacturer's plastic products intended for sale in this state is recycled plastic postconsumer material.

This bill would prohibit a person from selling a plastic bag that is labeled as "biodegradable," "compostable," "degradable," or as otherwise specified, unless the plastic bag meets an ASTM standard specification for the term used on the label.

The bill would require a manufacturer or supplier, as defined, upon the request of the board or the public, to submit information and documentation demonstrating compliance with the bill or a certification from an independent organization authorized by the board to demonstrate compliance.

The bill would prohibit a supplier or manufacturer from providing a bid for plastic bags to a state agency that does not comply with the bill's requirements.

The bill would require the board to review, determine, publish, and update the ASTM standard specifications for degradable, biodegradable and compostable, as applied to the sale and manufacture of plastic bags in this state, and to maintain and publish a list of independent organizations authorized by the board to certify compliance.

The bill would authorize the board to assess a civil penalty upon any person violating the bill's requirements in an amount of not more than \$50,000 and would require the board to deposit these penalties into the Plastic Bag Labeling Account, which the bill would create in the Integrated Waste Management Fund in the State Treasury, for expenditure by the board, upon appropriation by the Legislature, for the board's costs of implementing the bill.

~~Existing law requires the California Integrated Waste Management Board and specified state departments to undertake various actions related to compost:~~

~~This bill would require the board, subject to available resources, to evaluate degradable and compostable technologies for food service products and bags, by coordinating voluntary demonstrations and testing, to determine the effectiveness of degradable and compostable technologies for food service products and bags, as specified, and by coordinating voluntary demonstrations and performance testing, to determine the designed use performance of those products and bags. The bill would require the board, subject to available resources, to summarize those evaluations, as specified. The bill would authorize the board to evaluate the performance of using various degradable and compostable technologies for compostable food service products and bags in simulated litter environments. The bill would require the board to publish its testing methodology, evaluations, and summaries, on its Web site on or before June 30, 2007, and to make recommendations to the Department of General Services for standards for degradable and compostable food service products and bags.~~



~~The bill would define terms and make legislative findings and declarations.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1.—The Legislature finds and declares all of the~~
SECTION 1. Chapter 5.7 (commencing with Section 42355)
is added to Part 3 of Division 30 of the Public Resources Code, to
read:

CHAPTER 5.7. BIODEGRADABLE AND COMPOSTABLE PLASTIC BAGS

42355. The Legislature finds and declares that it is the public
policy of the state that environmental marketing claims, whether
explicit or implied, should be substantiated by competent and
reliable evidence to prevent deceiving or misleading consumers
about the environmental impact of plastic bags. For consumers to
have accurate and useful information about the environmental
impact of plastic bags and packages, environmental marketing
claims should adhere to uniform and recognized standards,
including those standard specifications established by the
American Society for Testing and Materials.

42356. For purposes of this chapter, the following definitions
apply:

(a) “ASTM” means the American Society for Testing and
Materials.

(b) “ASTM standard specification” means a definition found in
the Style and Form Guide for ASTM Standards and does not
include an ASTM Standard Guide, a Standard Practice, or a
Standard Test Method.

(c) “Manufacturer” means a person, firm, association,
partnership, or corporation that produces a plastic bag.

(d) “Specification” means an explicit set of requirements to be
satisfied by a material, product, system, or service.

(e) “Supplier” means a person who does one or more of the
following:

(1) Sells, offers for sale, or offers for promotional purposes, a
plastic bag that is used by a person to contain a product.

1 (2) *Takes title to a plastic bag produced either domestically or*
2 *in a foreign country, that is purchased for resale or promotional*
3 *purposes.*

4 42357. (a) *A person shall not sell a plastic bag in this state*
5 *that is labeled with the term “compostable,” “biodegradable,”*
6 *“degradable,” or any form of those terms, or in anyway imply that*
7 *the bag will break down in a landfill, composting, marine, or other*
8 *natural terrestrial environment, unless the plastic bag meets an*
9 *ASTM standard specification for the term used on the label.*

10 (b) (1) *A manufacturer or supplier, upon the request of the*
11 *board or a member of the public, shall submit to the board or that*
12 *member, information and documentation demonstrating*
13 *compliance with this chapter, in a format that is easy to understand*
14 *and scientifically accurate.*

15 (2) *A manufacturer or supplier may, instead of submitting*
16 *information and documentation under paragraph (1), supply a*
17 *certification from an independent organization authorized by the*
18 *board pursuant to paragraph (3) of subdivision (a) of Section*
19 *42359 to demonstrate compliance with this chapter.*

20 42358. *A supplier or manufacturer shall not provide to a state*
21 *agency a bid for plastic bags that do not comply with this chapter.*

22 42359. (a) *The board shall do all of the following:*

23 (1) *Review, determine, and publish the ASTM Standard*
24 *Specification for degradable, biodegradable, compostable, or any*
25 *form of those terms, applicable to sale and manufacture of plastic*
26 *bags in this state.*

27 (2) *On or before January 1, 2007, and at least once every three*
28 *years thereafter, update the specifications specified in paragraph*
29 *(1).*

30 (3) *Maintain and publish a list of independent organizations*
31 *authorized by the board to certify compliance with this chapter.*

32 (b) (1) *The board may assess a civil penalty upon a person*
33 *violating this chapter in an amount of not more than fifty thousand*
34 *dollars (\$50,000) for each violation, pursuant to a notice and*
35 *hearing procedure that conforms with Chapter 5 (commencing*
36 *with Section 11500) of Part 1 of Division 3 of Title 2 of the*
37 *Government Code.*

38 (2) *The total annual penalties assessed upon a violator of this*
39 *chapter shall not exceed one hundred thousand dollars*
40 *(\$100,000).*

(3) *The board shall deposit all penalties paid pursuant to this section into the Plastic Bag Labeling Account, which is hereby created in the Integrated Waste Management Fund in the State Treasury. The moneys deposited in the Plastic Bag Labeling Account shall be expended by the board, upon appropriation by the Legislature, for the board's costs of implementing this chapter.*

following:

~~(a) The California Integrated Waste Management Act of 1989 (Division 30 (commencing with Section 40000) of the Public Resources Code) generally requires cities and counties to reduce the amount of material disposed in landfills in California by 50 percent by 2000.~~

~~(b) Organic waste represents over 35 percent of the material disposed in landfills in California.~~

~~(c) Composting is a common practice for many types of organic materials.~~

~~(d) A significant amount of food waste is not composted due to the high cost of removing and separating food service products from food waste.~~

~~(e) If food service products were compostable, costs would be reduced and more food waste could be economically composted. This would help cities and counties to achieve and maintain their diversion goals.~~

~~(f) Plastic bags can be a significant contaminant in yard and landscape waste composting operations.~~

~~(g) If yard waste collection bags were compostable, costs would be reduced and more yard waste could be economically composted. This would also help cities and counties to achieve and maintain their diversion goals.~~

~~(h) Litter is more than a visual blight. It is a significant contributor to the contamination of land and water, and poses a threat to state wildlife, public health, and public safety.~~

~~(i) Reduction of litter is an integral part of local governments' ability to comply with their trash total maximum daily load permit requirements.~~

~~SEC. 2. Chapter 5.2 (commencing with Section 42250) is added to Part 3 of Division 30 of the Public Resources Code, to read:~~

~~CHAPTER 5.2. DEGRADABLE AND COMPOSTABLE PRODUCTS~~

~~42250. Unless the context requires otherwise, the following definitions govern this chapter:~~

~~(a) “ASTM standard specifications” means ASTM 6400-99, which is the standard specification for compostable plastics, and ASTM 6868-03, which is the standard specification for biodegradable plastics used as coatings on paper and other compostable substances, and includes any revisions to either of those specifications.~~

~~(b) “Compostable product” means a product designed to undergo degradation by biological processes during composting, to yield carbon dioxide, water, inorganic compounds, and biomass, at a rate that is consistent with timeframes of standard composting industry practices, and leave no distinguishable or toxic residue.~~

~~(c) “Degradable product” means a product that meets both of the following requirements:~~

~~(1) The product is designed to undergo degradation under specified conditions including, but not limited to, biodegradation, photodegradation, or a combination of oxidation and biodegradation, as defined by the American Society of Testing Materials (ASTM).~~

~~(2) The degradation of the product, as attested by the manufacturer or an independent laboratory, does not produce or result in a residue or byproduct, that, during or after the process of degrading, would be a hazardous or extremely hazardous waste, identified pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.~~

~~(d) “Designed use” means the purpose for which the product is intended to be used before its disposal.~~

~~42251. To encourage diversion of organic material, including food and green waste, from the state’s landfills, as well as to reduce the environmental impact of litter as a threat to wildlife and public health and safety, appropriate degradable and compostable products and technologies need to be evaluated.~~

~~42252. (a) The board shall evaluate degradable and compostable technologies for food service products and bags, as follows:~~

1 ~~(1) Coordinate voluntary demonstrations and testing, to~~
2 ~~determine the effectiveness, including degradation rates, of~~
3 ~~degradable and compostable technologies for food service~~
4 ~~products and bags, in a variety of composting environments. The~~
5 ~~demonstrations and testing shall be consistent with the processes~~
6 ~~and protocols used in the ASTM standard specifications or other~~
7 ~~appropriate independent scientific testing and methods.~~

8 ~~(2) Coordinate voluntary demonstrations and performance~~
9 ~~testing, to determine the designed use performance of a variety of~~
10 ~~compostable food service products and bags.~~

11 ~~(b) The board shall summarize the degradable and compostable~~
12 ~~technologies for food service products and bags, and the voluntary~~
13 ~~demonstrations and testing, including designed use performance~~
14 ~~and degradation rates of various food service products and bags;~~
15 ~~cost information; residuals; toxicity, including heavy metals; and~~
16 ~~estimated potential diversion from landfills in the state, if those~~
17 ~~technologies and products are used.~~

18 ~~(c) The board may evaluate the performance of using various~~
19 ~~degradable and compostable technologies for food service~~
20 ~~products and bags in simulated litter environments.~~

21 ~~(d) (1) The board shall pursue agreements with interested~~
22 ~~private and public partners to fund and coordinate the voluntary~~
23 ~~demonstrations and testing.~~

24 ~~(2) The evaluations and summaries required pursuant to~~
25 ~~subdivisions (a), (b), and (c), are subject to available resources.~~

26 ~~42253. On or before June 30, 2007, the board shall publish the~~
27 ~~testing methodology used pursuant to Section 42252 and the~~
28 ~~evaluations and summaries made pursuant to Section 42252 on its~~
29 ~~Web site.~~

30 ~~42254. The board shall make recommendations to the~~
31 ~~Department of General Services for standards for degradable and~~
32 ~~compostable food service products and bags.~~